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PARLEMENTS AND POLITICAL CRISIS IN FRANCE UNDER LOUIS XV: THE BESANÇON AFFAIR, 1757–1761*

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ABSTRACT. *The causes and consequences of the quarrels between Louis XV and the parlements in the third quarter of the eighteenth century continue to provoke a lively debate amongst historians. In France, the traditional thesis of a reforming monarchy confronted by the selfish obstructionism of the judiciary has many adherents. However, few Anglo-American scholars favour such an interpretation and some have gone as far as to reject the existence of a crisis altogether. Research is also concentrated upon the consequences of these disputes, and their importance to the development not only of parlementaire constitutionalism, but even of a new political culture. In order to contest these conflicting interpretations, this article takes a fresh look at the Besançon affair of 1757–1761. In one of the most heated political battles of the reign, thirty judges were exiled from the parlements of Besançon, provoking a lively response from the other parlements, headed by that of Paris. By examining the origins of the dispute in Franche-Comté, and the subsequent reaction of both the government and the Parisian magistrates, this article offers a new picture of the causes of crisis and of how judicial politics actually worked.*

In December 1759 a series of long smouldering feuds within the parlement of Besançon flared into public view.¹ The crown quickly sided with the first president of the parlement, Bourgeois de Boynes and his supporters, rather than their thirty opponents who formed a slight majority in the court. When they refused to accept defeat, the thirty were exiled from the province of Franche-Comté, some to towns as distant as St-Jean-Pied-de-Port near the frontier with Spain. The harsh punishment of these magistrates provoked one of the many celebrated ‘affairs’ which rocked relations between Louis XV and

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¹ The two most important studies of the crisis are by A. Estignard, *Le parlement de Franche-Comté de son installation à Besançon à sa suppression, 1674–1790* (2 vols., Paris, 1892), I, 271–398, and M. Marion, ‘Grèves et rentrées judiciaires au XVIII^e siècle. Le grand exil du parlement de Besançon, 1759–1761’, *Revue des questions historiques*, xciv (1913), 65–93. Jean Egret, *Louis XV et l’opposition parlementaire* (Paris, 1970), pp. 140–4, also provides a brief introduction to the subject. In his important study of the judicial system in Franche-Comté, Maurice Gresset, *Gens de justice à Besançon, 1674–1789* (2 vols., Paris, 1978), II, 700–16, has followed the earlier accounts of Estignard and Marion, although he does make some important new points.

the parlements in the years after 1750.² The provincial courts were notably vociferous in their condemnation of government policy, but it was the parlement of Paris which mounted the most serious opposition to the crown. In November 1760, the Parisian magistrates were sufficiently incensed to summon the princes and the peers in order to make a joint protest about events in Besançon. Faced with a direct challenge to his authority, Louis XV took decisive action to prevent the formation of a potentially threatening coalition. Had the king maintained his personal initiative, then the opportunity existed for the Besançon affair to be settled on terms favourable to the government. Instead Louis XV allowed the factionalism that so bedevilled his council to reassert itself. In the spring of 1761 *Bourgeois de Boynes* was forced to resign and the thirty exiles were recalled. It was yet another blow to the already battered authority of the French monarchy.

Little has been written about the Besançon affair and a review of the crisis is long overdue, not least because it provides a fascinating example of how political life functioned in eighteenth-century France. In traditional accounts, the dispute was seen as part of the broader battle between the parlements and the crown resulting from the mounting fiscal burden of the Seven Years War.³ For some the parlements were guilty of a selfish and ultimately destructive defence of their own fiscal privileges,⁴ while others saw the magistrates, whatever their shortcomings, as protecting provincial and individual liberties against a rapacious monarchy.⁵ Both interpretations had the advantage of tying the events in Besançon, and the problems of the parlements more generally into the broader debate about the failure of the monarchy to solve the political and financial crisis that preceded the revolution. The damaging effects of the Seven Years War, not least upon the prestige and reputation of the crown, is too often left out of recent historical accounts of the period. So too is the impact of mounting taxation, which provided the catalyst for both the Besançon affair and many other *parlementaire* crises. However, any analysis of eighteenth-century French politics based upon the simple dialectic of a clash between a reforming monarchy and judicial opposition will obscure the subtlety and flexibility which were the daily reality of government.

Over the last twenty-five years, a distinguished group of Anglo-American historians has emphasized the unwritten conventions, rules and codes of behaviour within which *parlementaire* politics was conducted.⁶ A common

² The work of Jean Egret, *L'opposition parlementaire*, remains the best introduction to the conflict between the crown and the parlements.

³ Good examples are the works of Estignard and Egret cited above.

⁴ M. Marion, *Histoire financière de la France depuis 1715* (6 vols., Paris, 1927–31), I, 181–225, and A. Cobban, 'The parlements of France in the eighteenth century', *History*, xxxv (1950), provide two classic examples of this interpretation.

⁵ An argument developed by Egret, *L'opposition parlementaire*, pp. 93–181.

⁶ It is only possible to cite a limited selection of these studies but they include: J. H. Shennan, *The parlement of Paris* (London, 1968), pp. 285–328; W. Doyle, 'The parlements of France and the breakdown of the old regime, 1771–1788', *French Historical Studies*, vi (1970); J. M. J. Rogister, 'Conflict and harmony in eighteenth-century France: a reappraisal of the nature of the relations

theme has emerged, stressing the innate conservatism of French magistrates and the generally consensual nature of judicial politics. In a recent article, William Doyle has pushed the argument to its logical limits by declaring that the *parlementaire* quarrels were 'a highly effective way of involving the governed in government'.⁷ Instead of the traditional picture of mounting opposition to Louis XV resulting in Maupeou's famous coup, Doyle describes a 'stable political system' which, apart from the isolated instance of the Brittany affair, was functioning effectively. Such an interpretation pushes the revisionist case too far. That government was conducted by tacitly understood rules is beyond doubt, but so too are the problems faced by Louis XV. Many of these were the result of earlier governmental lessons being forgotten, or the failure of previously successful methods of conflict resolution to function properly. By studying the Besançon affair it is possible to demonstrate that, far from being unique, later events in Rennes were a blazing symbol of a far deeper malaise that was rapidly corroding royal authority.

The Besançon affair also serves as a useful vantage point from which to examine the influence of Jansenism upon the ideas and attitudes of the parlements.⁸ Magistrates in Besançon, unlike their cousins in Rouen or Paris, were no friends of the Jansenists and they were distinctly reluctant to become involved in the persecution of the Jesuits.⁹ They therefore provide a useful test case against which to assess how widely constitutional ideas developed in Paris had been disseminated within provincial society. Finally, the affair offers a potential model that can be used to challenge the current orthodoxy which seeks to incorporate the *parlementaire* quarrels into a broader movement leading towards the formation of a modern political culture.¹⁰ Much of this research has concentrated upon ideas, ideologies and discourses, that were developed in the course of these struggles. Yet, *ancien régime* politics was more than just an ideological dress-rehearsal for 1789, equally important was the social and institutional context within which new ideas were formed. A fresh look at the Besançon affair offers an opportunity to reexamine the conduct of judicial

between the crown and the parlement of Paris under Louis XV, 1730-1754', unpub. D.Phil. thesis (University of Oxford, 1972); A. N. Hamscher, *The parlement of Paris after the Fronde, 1653-1673* (Pittsburgh, 1976); B. Stone, *The parlement of Paris, 1774-1789* (Chapel Hill, 1981); and P. R. Campbell, 'The conduct of politics in France in the time of the cardinal de Fleury, 1723-1743' (unpublished Ph.D. dissertation, University of London, 1985).

⁷ W. Doyle, 'The parlements', in *The French revolution and the creation of modern political culture*, 1. *The political culture of the old regime*, ed. K. M. Baker (Oxford, 1987), pp. 162-4.

⁸ A selection of the many works written on this theme include: D. K. Van Kley, *The Jansenists and the expulsion of the Jesuits from France, 1757-1765* (New Haven, 1975) and *The Damiens affair and the unraveling of the ancien régime, 1750-1770* (Princeton, 1984); D. Echeverría, *The Maupeou revolution. A study in the history of libertarianism, France 1770-1774* (Baton Rouge, 1985); D. C. Joynes, 'Jansenists and ideologies: opposition theory in the parlement of Paris, 1750-1775' (unpublished Ph.D. thesis, University of Chicago, 1981); and J. W. Merrick, *The desacralization of the French monarchy in the eighteenth century* (Baton Rouge, 1990). ⁹ Gresset, *Gens de Justice*, II, 708-9.

¹⁰ The work of K. M. Baker has been especially important in opening this debate, see, for example, *Inventing the French revolution. Essays on French political culture in the eighteenth century* (Cambridge, 1990), and his introduction to *The French revolution and the creation of modern political culture*. 1. *The political culture of the old regime*, ed. K. M. Baker (Oxford, 1987).

politics, and can contribute much to our understanding of government in eighteenth-century France.

I

Rising taxation was the immediate source of conflict between the parlement of Besançon and the government of Louis XV.¹¹ Following the lead given by the parlement of Paris, the provincial courts mounted strenuous resistance to the imposition of a second wartime *vingtième* in the winter of 1756–7, and the crown was obliged to use a combination of forced registration and the exile of recalcitrant magistrates to achieve compliance. In the case of Besançon, eight magistrates were either exiled or imprisoned before the law was registered, and the task of restoring calm afterwards was complicated by the death of the first president, Pourroy de Quinsonnas, on 1 April 1757. The position of first president was crucial to the smooth running of a parlement. Appointed by the crown, he needed to be able to maintain the confidence of his colleagues, while simultaneously seeking to facilitate the registration of often contentious legislation. Choosing the right man for the job was never easy because appointing an outsider could be interpreted as a deliberate attempt to bypass provincial interests; whereas the promotion of an internal candidate risked fomenting jealousy amongst those whose ambitions had been thwarted. Discretion and tact were vital if the transition was to be orderly, and the government showed neither. With alarming, but not untypical, insensitivity it installed the intendant of the province, Bourgeois de Boynes, as first president, a position to be exercised jointly with his existing duties. It was a serious mistake, and the causes of that misjudgement explain much about the origins of the confrontation that followed.

Bourgeois de Boynes was the first to float the idea of combining the posts of intendant and first president. On hearing of Pourroy de Quinsonnas' death he wrote immediately to chancellor de Lamoignon to offer his advice.¹² He argued that it was vital to appoint a man of firm principles, and claimed that combining the two offices would give 'à celui qui en seroit pourvu une grande autorité et un très grand crédit dans la province'. Bourgeois avoided making any comment about his own qualifications for the post, but he did ask the chancellor to assist in securing his appointment as intendant of Orléans, presumably to be close to his family estates. The ministry ignored his plea for a transfer, but was evidently swayed by the logic of his argument because on 9 May 1757 Bourgeois was appointed first president of the parlement of Besançon. His promotion was another sign of confidence in a man who had demonstrated exemplary loyalty to Louis XV.

The early career of Bourgeois de Boynes had developed in a traditional fashion, including spells as counsellor in the parlement of Paris, a *maître des requêtes* and a president in the *grand conseil*. However, in September 1753 he

¹¹ Egret, *L'opposition parlementaire*, p. 140, and Estignard, *Parlement de Franche-Comté*, 1, 271–4.

¹² A[rchives] N[ationales] A[rchives] P[rivées] 162 mi 1, dos. 2, fo. 32, Bourgeois de Boynes to Lamoignon, 1 April 1757.

agreed to serve as *procureur général* of the short-lived *chambre royale*, formed as a replacement for the exiled parlement of Paris.¹³ For the Parisian magistrates and their supporters the *chambre royale* had represented a particularly nasty threat, and by serving in such a high-profile position Bourgeois incurred the lasting enmity of the parlements. He had, nevertheless, demonstrated his willingness to uphold the king's authority and his reward was rapid promotion to the intendency of Franche-Comté in September 1754.¹⁴ Personal merit had certainly played a vital part in his success,¹⁵ but powerful patrons were also behind his rise. From his early days as a *maître des requêtes* Bourgeois was backed by both chancellor de Lamoignon and the maréchal de Belle-Isle.¹⁶ As the Besançon affair developed the two men would do everything in their power to protect their protégé.

As one of the preconditions for accepting the post of first president, Bourgeois had sensibly requested the recall of the magistrates exiled for their opposition to the second *vingtième*, but any goodwill that might have flowed from that gesture was soon dissipated.¹⁷ Acting in his capacity as intendant, Bourgeois prolonged the collection of a tax 'deux sols pour livre de la capitation' and reduced the privileges of the province in regard to the cultivation of tobacco.¹⁸ Not surprisingly, the parlement, which saw itself as the guardian of the privileges of Franche-Comté, felt compelled to make remonstrances to Louis XV in August 1758. Its decision was perfectly consistent with others adopted previously, and with the behaviour of the sovereign courts generally. The problem arose from that fact that any remonstrances were implicitly a criticism of the intendant. Intentionally or otherwise, the judges were complaining about the conduct of their own chief. Nothing could better illustrate the absurdity of his appointment to two essentially incompatible posts.¹⁹

If a firm royal response to the remonstrances had been promptly delivered, all might have been well, but there was no reply from Versailles – probably on account of the turmoil resulting from the disgrace of cardinal de Bernis.²⁰ As a result, when the parlement of Besançon reassembled after the judicial vacations, the first president and his supporters were unable to prevent the adoption of a second protest. A plenary session, held on 7 December 1758, was expected to approve the new remonstrances. However, the main opponents of the first president were also planning to pass an *arrêt de défense*, which would

¹³ Egret, *L'opposition parlementaire*, pp. 61–4.

¹⁴ Feydeau de Brou and Amelot, who had served alongside Bourgeois as *avocats généraux*, were similarly rewarded.

¹⁵ Marion, 'Grèves et rentrées', p. 68, claims that Bourgeois had the reputation of being a gifted jurist.

¹⁶ Egret, *L'opposition parlementaire*, p. 140.

¹⁷ Estignard, *Parlement de Franche-Comté*, I, 301–2.

¹⁸ Egret, *L'opposition parlementaire*, pp. 140–1.

¹⁹ It is true that in Provence the offices of intendant and of first president were in the same hands. However, this was an established tradition and the incumbent was always a local man and not an outsider like Bourgeois de Boynes in Franche-Comté.

²⁰ Bernis, who was dismissed in November 1758, had played a key role in directing government policy towards the parlements.

have suspended the disputed fiscal edicts pending a response from the king.²¹ Bourgeois was clearly aware of the danger because he persuaded his colleagues to adjourn what had already been a lengthy debate. It was intended to continue the discussion the next morning, but that night the first president was struck by a sudden illness, forcing the assembly to be postponed. His sickness was almost certainly feigned because the arrival of a letter from the chancellor brought about an immediate recovery.

Equipped with the chancellor's instructions, Bourgeois called an assembly of the parlement on 15 December. The message from Versailles was unequivocal: the parlement was to submit its new remonstrances without delay, and was forbidden from taking further action until it had received the king's reply. Having read the letter, the first president opened a debate about how the company should respond. The first seven judges gave their opinions in the normal fashion, the eighth protested that to do so was contrary to the internal rules of the parlement. He argued that it was irregular to discuss a new issue before the court had finished its debate begun on 7 December. If he had accepted this objection, Bourgeois would have risked allowing his opponents to order an *arrêt de défense* – the very result his strategy had been designed to prevent. Unwilling to risk defeat, he took the provocative decision to close the assembly and then left the parlement followed by twenty-four of his colleagues.

The remainder, some thirty in all, refused to leave the building and, in the days that followed, they continued to assemble as a mark of protest. They also refused to perform their normal judicial duties. On 28 December, eight presumed ringleaders were summoned to Versailles, not, as might be expected, to negotiate, but as punishment. Once at court, they were refused an audience by both the king and his ministers and were left to languish while similar authoritarian methods were employed against their colleagues. The judges who had continued to protest in Besançon received *lettres de cachet* on 8 January, ordering them to resume their regular service. That order was ignored, leaving the ministry with little alternative but to punish their disobedience. Thus, on the night of 20/21 January they received news of their exile; five days later the deputies at Versailles met a similar fate.

²¹ That this was the intention of the judges who opposed Bourgeois de Boynes appears beyond doubt. See, for example, the pamphlet supporting their position entitled 'Recit de ce qui a occasionné la détention de trente des soixante membres du parlement de Besançon en Janvier 1759' and the 'Mémoire' sent to the Jansenist lawyer Le Paige titled 'Eclaircissements donnés par M. Renard conseiller au parlement de Besançon, exilé à Antibes, sur l'imprimé ayant pour titre: "Récit de ce qui a occasionné la détention de trente des soixante membres du parlement de Besançon en Janvier 1759". B[ibliothèque de] P[ort]-R[oyale] Collection Le Paige 556, fos.3–5. The following is based on the pamphlets listed above and on the notes of Renard, plus the registers of the Parlement, B[ibliothèque] M[unicipale de] B[esançon] Collection Chiflet 57.

II

Clearly, the split in the parlement of Besançon can be seen as a consequence of Bourgeois de Boynes' appointment; yet he was only a symbol of broader divisions amongst the magistrates. Maurice Gresset has demonstrated that it was not only the younger judges, but those from more recently ennobled families who opposed Bourgeois and the government, which suggests that there were important social frictions within the court.²² Nor should we forget that in Besançon, as elsewhere, the judges were divided into constantly shifting factional groups, determined by, among other things, family ties, the influence of patronage and personal ambition. Motives for adopting a particular position could often be petty. Counsellor Dumesnil, an implacable foe of Bourgeois, was accused by his enemies of taking his stance because he blamed the intendant for the loss of the right to plant a few 'journaux du tabac'.²³ Yet, despite the continuing existence of these rather base motives, there is evidence of genuine anger within the parlement. Opposition to government policy was expressed in forceful language, shocking moderates like president de Chiflet or the *procureur général*, Doroz, who were told to their faces that 'il était honteux à nous, après plus de trente ans de service, de vouloir toujours consulter les ministres'.²⁴ Doroz was so appalled by the violent behaviour of his assailant, the counsellor d'Olivet, that he drafted a formal protest. Another magistrate prepared to use radical language was Petitcuenot who, while speaking of the impending visit of the marquis de Paulmy to the province, declared 'son mépris pour tout homme revêtu de quelque portion de l'autorité du roi'.²⁵ Other examples could be cited, but Bourgeois described the parlement with some accuracy in his letter to chancellor de Lamoignon of 1 April 1757. He noted that the parlement:

se trouve aujourd'huy divisé en deux parties dont l'un compose de toute la jeunesse et qui se trouve le plus nombreux sera toujours opposé aux volontés du Roy et prest à embrasser les partis les plus vifs et les plus contraires à l'autorité.²⁶

Although the first president had done little to heal those divisions, his reading of the situation was sound.

This internal turmoil was symptomatic of the broader problems that afflicted the parlements in the third quarter of the eighteenth century. Throughout these troubled years, the robe nobility was riven by quarrels and the judges of Besançon, like those of Paris in 1756 and of Rennes during the Brittany affair, were forced to choose between obedience to their king, or to the courts of which they were members. Many of the more moderate

²² Gresset, *Gens de justice*, II, 712–16.

²³ BMB Collection Chiflet 59, fos. 227–8.

²⁴ Quoted in Estignard, *Parlement de Franche-Comté*, I, 285. The incident took place on 29 Jan. 1757, before Bourgeois became first president.

²⁵ The marquis de Paulmy succeeded his uncle as secretary of state for war in February 1757.

²⁶ AN AP 162 mi 1, dos. 2, fo. 32, Bourgeois de Boynes to Lamoignon, 1 April 1757. The commandant of the province, the duc de Randan, saw matters in a similar light as can be seen from his letter quoted by Estignard. *Parlement de Franche-Comté*, I, 284.

magistrates were driven from their posts, or abandoned them in disgust,²⁷ and it is a myth that the more radical ideas that had crept into the remonstrances of the sovereign courts were universally accepted. Hue de Miromesnil, the conservative first president of the parlement of Rouen, described that bible of parliamentary constitutionalism, the 'Lettres historiques' of Louis-Adrien Le Paige, as a miserable 'brochure'.²⁸ However, it was the long serving president de Bourbonne of Dijon who most clearly expressed the despair of the moderates. In a letter to his friend Chiflet in Besançon, he explained why he was resigning from his office after twenty-three years of loyal service:

ma mauvaise santé est le motif de ma retraite, mais le dégoût du métier influe beaucoup sur ma résolution; notre récompense est la considération dans notre compagnie et l'on ne peut y aspirer à présent que par des résolutions hasardées et par des propos républicains; dès que c'est à ce prix j'y renonce.²⁹

Bourbonne was not alone, and his predicament serves as a warning to historians not to assume that every magistrate was comfortable with the claims of the radical few.³⁰

Thus, it would appear that the appointment of Bourgeois de Boynes acted as a catalyst upon the existing fissures within the parlement of Besançon, provoking the crisis of January 1759. Yet there was another crucial dimension to the origins of the dispute. As intendant, Bourgeois had established a close working relationship with the military commandant of the province, the duc de Randan.³¹ The commandants were, with the intendants, the key to provincial administration in the *pays d'états* under Louis XV. Indeed, it is possible to argue that the commandants, like the provincial governors, were often more important than the intendants because of their ability to combine local knowledge and contacts with largely uninterrupted access to ministers and even the king.³² For a small province like Franche-Comté, the commandant offered priceless access to the informal channels of government. Thus throughout the 1740s and 1750s, the parlement of Besançon used the governor, the duc de Tallard, and the commandant, Randan, both of whom

²⁷ B[bibliothèque] N[ationale] MS Fr. 10986, Hue de Miromesnil, *Lettres sur l'état de la magistrature en l'année 1772*, fos. 89–90. Miromesnil cited the gradual eclipse of the moderate magistrates as one of the many reasons for the downfall of the parlements in 1771.

²⁸ P. Le Verdier, *Correspondance politique et administrative de Miromesnil premier président du parlement de Normandie* (5 vols., Paris, 1899–1903), iv, 121, Miromesnil to the *Contrôleur général* de L'Averdy, 5 Feb. 1766.

²⁹ BMB Collection Chiflet 195, fos. 19–20, Bourbonne to Chiflet, 5 Feb. 1757.

³⁰ The present author is currently working on a larger study of those magistrates who opposed the more extreme claims of the Jansenists and their supporters in the parlements.

³¹ BMB Collection Chiflet 59, fos. 295–6, Randan to maréchal de Belle-Isle, 5 Feb. 1759. The commandant boasted in his letter to Belle-Isle that he had personally recommended Bourgeois to Louis XV prior to his appointment as first president.

³² Unfortunately, the commandants have been largely ignored by historians of the royal administration. For example, they were not included in M. Antione's, *Le gouvernement et l'administration sous Louis XV. Dictionnaire biographique* (Paris, 1978), and such oversights are typical of most studies of eighteenth-century government and administration.

were substantial local landowners, to petition the ministry on its behalf.³³ Such methods could be far more rewarding than public and, from the government's point of view, irritating remonstrances.

However, by 1757 the duc de Randan was showing signs of thorough exasperation with what he saw as a group of hotheads in the parlement. As a military man, it is possible that he had been angered by the resistance of the judges to wartime taxation because his proposed solution was nothing if not combative. He wanted the 'ligueurs' punished and sent the names of those he considered responsible to Mme de Pompadour and to the members of the council.³⁴ On 11 February 1757, he went a stage further and suggested that 'un coup d'état bien frappant pour tout le royaume et qu'on pourra faire ici sans nul risque, serait de rembourser les offices des séditeux'.³⁵ Given the later problems involving the parlements and the commandants, notably during 1763 and in the course of the Brittany affair, it is tempting to suggest that the ancient rivalry between robe and sword had resurfaced.³⁶ Nothing could be further from the truth. The sword nobility, like the robe itself, was by the late 1750s deeply divided in its attitude towards the behaviour of the parlements.

In another letter to Mme de Pompadour and the members of the council. Randan wrote: 'ce n'est pas icy matières de religion, de competance, ou autres à peu près semblables qui animent cette ligue; c'est l'ésprit de revolte'.³⁷ He believed the government needed to strike back and it is hardly surprising that he saw the exile of the thirty magistrates as one of the happiest events of his life.³⁸ Others were more reticent, or even supported the parlement. No better example could be cited than the governor of the province, the duc de Duras, who was also Randan's uncle. He tried to restrain his nephew and, in a letter written in March 1759, wrote:

Je ne connais, Dieu merci, plus en France de parti contraire à l'autorité du Roi: parfois les parlements croient pouvoir et devoir représenter, vous y avez séance, parlez honnêtement, mais ferme, et pour refrain éternel: obéissance au Roi. Ce n'est pas à nous militaires, à juger; nous pouvons, comme les chiens du village, aboyer pour avertir le patron; c'est au maître à qui nous fait serment à qu'il faut obéir, même dans l'occasion où nous trouverions qu'il fût injuste.³⁹

Duras maintained a discreet distance from the policy being pursued by the ministry, but if he sought to remain neutral there were other members of the

³³ A[rchives] D[épartementales du] D[oubs] B2840.

³⁴ Estignard, *Parlement de Franche-Comté*, 1, 287.

³⁵ Ibid. p. 288.

³⁶ M. Mansergh, 'The revolution of 1771 or the exile of the parlement of Paris' (unpublished D.Phil. thesis, University of Oxford, 1973), claimed that the clash between the robe and the sword was central to politics in France after 1750. The older view of a fusion of the two groups was best expressed by F. L. Ford, *Robe and sword. The regrouping of the French aristocracy after Louis XIV* (Harvard, 1953).

³⁷ BMB Collection Chiflet 59, fos. 263-4, 19 Feb. 1757.

³⁸ Ibid. fos. 295-6, Randan to Belle-Isle, 5 Feb. 1759. Randan was especially pleased by the calm manner in which the province had reacted to events. This peace was soon shattered and the city was soon split into two hostile camps, Marion, 'Grèves et rentrées', pp. 77-9.

³⁹ Estignard, *Parlement de Franche-Comté*, 1, 325.

local sword nobility who backed the parlement wholeheartedly. At the head of this group was the marquis de Grammont, who had served as lieutenant-general and had been wounded in battle at Prague.⁴⁰ He made no secret of his distaste for the policies of Bourgeois and Randan, and allowed his house to be used as a meeting place for their opponents. As a consequence, he was exiled in June 1758 and was not recalled until the end of the crisis in 1761.⁴¹

The troubles in Besançon had been provoked by mounting fiscal pressure and had been exacerbated by ministerial misjudgements at Versailles. The result was a classic *ancien régime* feud involving the representatives of the crown and the local parlement. In the name of provincial interests, strong language was being used to denounce those charged with exercising the royal authority. Supporters of the crown, on the other hand, accused their opponents of disloyalty, to the extent that Randan even suggested that his enemies wished to join the Swiss confederation.⁴² The province was split by the quarrel, and there are reports of government supporters being subject to the charivari and rough music of the lower orders.⁴³ Clearly, these provincial concerns were being played out against the broader political background, and both sides undoubtedly had their eye on the other parlements, especially that of Paris. However, there is little evidence that Jansenism was influencing the behaviour of those involved, instead the debate was conducted in terms of obedience, or opposition, to the king's authority. What made the Besançon affair more than just a local squabble, and for the monarchy disturbing, was the speed with which the crisis spread beyond the frontiers of Franche-Comté. After February 1759, Bourgeois and his allies sought to give the impression that justice could function without the exiles, but they were handicapped by the refusal of the local lawyers to plead before the rump parlement. They were thus obliged to sit out the crisis in the hope that the ministry would stand firm on their behalf. Thereafter, the affair took on national dimensions, and it was the parlement of Paris that would lead a prolonged campaign in defence of the exiles.⁴⁴

III

News of events taking place in Franche-Comté first came to the attention of the Parisian magistrates in February 1759.⁴⁵ On the 7th several counsellors attempted to persuade first president de Molé of the need to call a plenary session to discuss the affair.⁴⁶ He informed them that he had already made contacts with the ministry and that his efforts needed time to succeed. In a lengthy audience with Louis XV on 11 February, Molé was unable to win any

⁴⁰ Ibid. p. 304.

⁴¹ Admittedly, he was *chevalier d'honneur* in the parlement, but his family had provided three archbishops of Besançon and was unquestionably of sword extraction: Gresset, *Gens de justice*, II, 618 n. 29.

⁴² BMB Collection Chiflet 59, fos. 263-4, 19 Feb. 1757.

⁴³ Ibid. fos. 229-30.

⁴⁴ Other parlements, including Rouen and Dijon, played important roles, but the limits of space have forced the present author to concentrate upon events in the capital.

⁴⁵ E. J. F. Barbier, *Chronique de la régence et du règne de Louis XV, 1715-1763* (8 vols., Paris, 1857-8), VII, 126-7.

⁴⁶ AN X1A 8289, fo. 8.

positive assurances about the fate of the exiles, which obliged him to call an assembly of the parlement on the 16th.⁴⁷ At this meeting government policy was attacked in resounding terms, although it proved possible for Molé and his senior colleagues to defeat a motion in favour of remonstrances drafted by the younger members of the *enquêtes*. Instead, the majority agreed to defer the matter until the first Tuesday of Lent, by which time, it was confidently predicted, the affair would be closed. Such optimism was soon proved to be unfounded, and the senior judges of the *grand'chambre* would be unable to prevent the parlement from launching a powerful and sustained campaign on behalf of the thirty exiles.⁴⁸

To understand the behaviour of the Parisian magistrates, it is necessary to accept that government policy in Franche-Comté carried a genuine threat to the parlements generally. If the crown could rid one court of its disruptive element then a similar policy might be enacted elsewhere. Moreover, the use of *lettres de cachet* was an affront to established legal procedure, as had been clearly stated in the initial denunciation of royal policy on 16 February. It was claimed that:

rien... n'est plus contraire aux lois essentielles de la monarchie que ces ordres rigoureux qui, sans aucune instruction préalable, enlèvent un citoyen à sa famille et à sa patrie, en le supposant coupable, sans même qu'il ait été en état de proposer ce qu'il aurait pu dire pour sa justification.⁴⁹

Arbitrary punishments offended legal sensibilities and to their credit the *parlementaires* were consistent in opposing *lettres de cachet*, especially when they were used against themselves. Judging by the content of the parlement's debates and remonstrances, the legal issue was probably the most important in ensuring the interest of the Parisians in the matter, but there were several other vital ingredients.

Between December 1756 and September 1757, the Paris parlement had been involved in a crisis very similar to that in Besançon which had resulted in a split amongst its members and the exile of sixteen supposed ringleaders.⁵⁰ During that dispute, it was the senior judges of the *grand'chambre* who had remained loyal to the crown, while the majority resigned in protest at a new edict regulating the internal organisation of the parlement. Paralysed by faction and bereft of any coherent plan or objective, the crown had been forced to back down in September 1757, allowing the return of exiles. The majority then proceeded to take their revenge upon those they accused of betraying the company, forcing several to resign from their posts.⁵¹ Events in Besançon bore more than a superficial resemblance to the crisis of 1756–7 and, in the

⁴⁷ Details of the debate are provided by J. Flammermont, *Les remonstrances du parlement de Paris au XVIII^e siècle* (3 vols., Paris, 1888–98), II, 172–6 and AN U 1094, dos. 3, 16 Feb. 1759.

⁴⁸ Between 1759 and 1761, the parlement of Paris made no fewer than seven protests to Louis XV about his policy in Franche-Comté, see Flammermont, *Remonstrances*, II, 172–221.

⁴⁹ Flammermont, *Remonstrances*, II, 173.

⁵⁰ J. Swann, 'Politics and the parlement of Paris, 1754–1771' (unpublished Ph.D. thesis, University of Cambridge, 1989), pp. 126–57.

⁵¹ Barbier, *Chronique*, VI, 609–13.

parlement's many debates, there was no shortage of references to the alleged failure of the *grand'chambre* on that occasion. This may well have helped to silence those inclined to argue against becoming involved in an affair that was outside the parlement's jurisdiction.⁵² Recent history may have contributed further in the sense that Bourgeois de Boynes' service in the *chambre royale* had done nothing to endear him to Parisian judges, and his discomfiture offered the possibility of revenge.

One final point of importance concerns the role played by factional groups within the parlement, most notably the *Parti janséniste* which had dominated the court's debates over the previous ten years.⁵³ These Jansenist magistrates had been ably assisted by lawyers such as Louis-Adrien Le Paige, whose writings had been fundamental in developing new constitutional arguments for the judges.⁵⁴ In the context of the Besançon affair, it was the theory of the *union des classes* that was most directly relevant. To strengthen their position against the crown and a rival court, the *grand conseil*, the magistrates had argued that the different parlements were the 'emanations' of the one unique parlement of France.⁵⁵ Faced by the troubles in Besançon, the idea of a *union* was invaluable because it provided magistrates throughout the kingdom with a perfect excuse to meddle in the affairs of Franche-Comté, even though they had no legal or jurisdictional right to do so.⁵⁶ Here was the practical side of a theory which, prior to 1771, was used as a convenient weapon to frighten the government. In fact, the particularism of the parlements prevented any meaningful co-operation on an institutional level, but personal contacts between members of the judiciary could give some force to the idea of a united opposition. Le Paige himself provides a good example of how such ties could help to give a national dimension to the Besançon crisis. Within days of his exile to Antibes, counsellor Renard was writing to Le Paige and the Parisian magistrate Saint-Hilaire, via a sympathetic advocate in the parlement of Aix.⁵⁷ By this circuitous route, Le Paige was supplied with the materials needed to venture into print on behalf of the exiles.⁵⁸ Informal contacts such

⁵² A good example of the continuing feud within the parlement was provided by the debate of 28 Aug. 1759 discussed below.

⁵³ The means by which the *parti janséniste* succeeded in manipulating the parlement has been examined by the present author in a forthcoming article entitled, 'Parlement, politics and the *parti janséniste*: the *Grand Conseil* affair, 1755-1756', *French History* (1992).

⁵⁴ The works of Van Kley and Joynes, cited above, provide the most comprehensive explanation of this process.

⁵⁵ The theory of a *union des classes* was developed at great length in the remonstrances of 27 Nov. 1755 and 4 Aug. 1756, see Flammermont, *Remonstrances*, II, 12-107, 135-48.

⁵⁶ Unfortunately, it is impossible in a short paper to do full justice to the *parlementaire* resistance to government policy in Franche-Comté. In addition to Paris, the parlements of Aix, Dijon, Grenoble, Rouen and Toulouse all sent repeated remonstrances to Louis XV, Marion, 'Grèves et rentrées', pp. 83-5.

⁵⁷ BPR Collection Le Paige, fos. 4-5. The network is revealed in a letter of Saint-Hilaire to Le Paige dated 10 July 1759, *ibid.* fo. 21.

⁵⁸ *Ibid.* Le Paige either wrote, or contributed to, several pamphlets including the 'Récit de ce qui a occasionné la détention de trente des soixante membres du parlement de Besançon en Janvier 1759', 'Reflexions sur l'ouvrage intitulé "Rélation des troubles actuels du parlement de Franche-Comté"' and 'Réponse à la lettre du Franc Comtois'.

as these were crucial to judicial politics, and by facilitating organised resistance did much to undermine the crown.

These examples help to illustrate that the Parisian magistrates, like their colleagues in Besançon, were not a united body defending clear objectives against the government. Without a firm legal foundation from which to intervene in the affairs of Besançon, the Parisians were obliged to argue that it was a matter of national concern and that the fundamental laws of the kingdom were at stake. It was a tenuous argument, and not one that every member of the court could accept.

The divisions within the parlement became immediately apparent when the good offices of president de Molé failed to convince Louis XV of the need to reverse his policy. The first president was therefore obliged to call a plenary session on 6 March in order to ask for more time to conduct his negotiations.⁵⁹ Foolishly, he accompanied his request with a reference to the benefits likely to be achieved by the recent remonstrances of the rump parlement of Besançon. He was sharply criticised for his error, and informed 'qu'il ne pouvoit point y avoir de remonstrances du parlement de Besançon attendu qu'il n'y avoit plus de parlement'. The insults that rained down upon 'la chambre des restés' in Besançon were, of course, also aimed at those who had not resigned from the Paris parlement in December 1756. Not surprisingly, Molé's call for restraint was swept aside as the court voted by 100 to 27 in favour of remonstrances. It was a serious defeat for both the first president and the government as they had tried to rally their supporters for a show of moderation. Le Paige observed, sarcastically, that 'on avoit convoqué le ban et arrière-ban de la grand'chambre', but it was to no avail.⁶⁰

Despite his defeat, Molé sought to soften the impact of the protest, presented on 4 April, by drafting a more moderate final text than some of his colleagues had intended.⁶¹ Rather than indulge in clever rhetoric, Molé chose instead to present a tightly argued critique of the use of *lettres de cachet* by citing at length the long-established edicts of 1467 and 1648.⁶² By emphasizing the legal motives behind the remonstrances, Molé could hope both to unite his colleagues and justify their actions before the king.

The government was not prepared to enter into a debate about the finer points of jurisprudence. On 8 April a 'grande députation' of the parlement was summoned to hear the king's reply. To underline the gravity of the occasion Louis XV was surrounded by the dauphin and princes of the blood as well as his ministers. Reading from a carefully prepared speech, the chancellor announced the king's displeasure at receiving remonstrances on a subject beyond the parlement's jurisdiction.⁶³ However, it was more than a

⁵⁹ AN U 1094, dos. 3, 6 Mar. 1759, and AN X1A 8289, fol. 13.

⁶⁰ BPR Collection Le Paige 556, fo. 44.

⁶¹ Flammermont, *Remonstrances*, II, 179, and Barbier, *Chronique*, VII, 141, 148–50.

⁶² Flammermont, *Remonstrances*, II, 180–1. Molé wrote that judges could not be: 'troublés ni inquiétés dans l'exercice de leurs fonctions, par lettres de cachet ni autrement, ni perdre l'exercice de leurs charges autrement que par mort, résignation volontaire ou forfaiture, préalablement jugée et déclarée judiciairement, et selon les termes de justice par des juges compétents'.

⁶³ Ibid. pp. 184–6.

simple reprimand because Lamoignon proceeded to outline his interpretation of the French constitution. He declared that 'c'est dans la personne seule du Roi qu'existe l'universalité, la plénitude et l'indivisibilité de l'autorité', and accused the parlement of having spoken of the 'droit de la Nation, comme s'il était distingué des lois dont le Roi est la source et le principe'. Finally, he confronted the theory of a *union des classes* and declared:

ce serait, abusant peut-être de quelque emphase d'expressions employées dans un sens tout différent par le chancelier de l'Hôpital, donner lieu de renouveler des prétentions solennellement proscrites et qui n'ont, depuis, été hasardées que dans des temps de troubles et de révolte, dont le Roi est bien assuré que son parlement déteste l'époque et le souvenir.⁶⁴

Few accounts of the history of France in the eighteenth century are complete without a quote from the famous *séance de la flagellation*⁶⁵ of 1766, but it is important to remember that the message it contained had been foreshadowed in many of the king's replies to the parlements. Certainly, that of 8 April 1759 was a particularly masterful example, and the ministry was sufficiently proud of its performance to publish the text in a special edition of the *Gazette de France*. Writing in his journal, Barbier observed that 'cette voie de publicité n'aura pas plu à messieurs du parlement'.⁶⁶ The accuracy of his observation became apparent when the judges debated the king's reply on 27 April.⁶⁷

Following standard procedure, the members of the *grand'chambre* demanded the appointment of commissioners to advise the court. This suggestion was rejected in favour of further remonstrances, and in a very revealing speech it was argued that:

dès le moment que la réponse du Roi avoit été mise dans des gazettes publiques pour rendre défavorables les remontrances du parlement, le parlement bien loin de mettre en délibération s'il feroit d'itératives remontrances devoit tout au contraire les arrêter sur le champ à l'effet de prouver la nécessité de ses démarches et faire tomber les mauvaises impressions qu'on a essayé de donner par la reponse du Roy.⁶⁸

The judges were clearly outraged that the ministry had publicly contradicted their remonstrances, and saw the need to reply immediately. Although illegal, the publication of the parlement's remonstrances had been a fact of life for many years, and by the late 1750s the crown had started to respond. It is an interesting example of how the publication of differing interpretations of the constitution had created an open debate between Louis XV and his judges,⁶⁹

⁶⁴ Ibid. pp. 186–7.

⁶⁵ This was the title given to Louis XV's response of 3 March 1766 to the remonstrances of the parlement of Paris.

⁶⁶ Barbier, *Chronique*, vii, 149.

⁶⁷ AN U 1094, dos. 3, 27 April. An earlier assembly, held on 9 April, had deferred the debate to allow time for reflection.

⁶⁸ Ibid.

⁶⁹ K. M. Baker has written extensively on this theme, see his 'Memory and practice: politics and the representation of the past in eighteenth-century France', *Representations*, II (1985), 134–64, and 'Politics and public opinion under the old regime: some reflections', in *Press and politics in pre-revolutionary France*, ed. J. R. Censer and J. D. Popkin (University of California Press, 1987), pp. 133–68.

and the need to maintain public support was clearly influencing decisions taken within the parlement. We need, however, to be cautious when assessing the motives behind these outbursts. Whenever the crown appeared to question the loyalty of the parlement, its members rallied for a corporate show of self-defence. Whatever their private doubts, individual magistrates were prepared to unite in order to uphold the honour of their institution, and in the period after 1750 this often meant supporting bold and combative remonstrances. Yet, if the crown reacted in a firm and consistent fashion, which it rarely did, existing divisions amongst the judges quickly re-emerged.

It was not until 22 July that Louis XV received the new remonstrances from the parlement, and they were followed by a second uncompromising speech from the chancellor.⁷⁰ The judges were divided about how best to influence the king, and it was only by a small minority that the court voted to prepare yet another protest.⁷¹ Molé presented these remonstrances for his colleagues' approval on 28 August. Normally, the reading of the remonstrances was a mere formality, and the text was about to be approved amidst cries of *omnes* when counsellor Bèze de Belouse demanded that *opinions* be collected individually.⁷² By calling for what was in effect a debate about the content of the remonstrances, he allowed his close friend, Drouyn de Vaudeuil, to attack the first president.⁷³ Drouyn, who was a frequent opponent of royal policy, argued that the remonstrances 'n'étoient pas remplis qu'il en avoit qu'étoient trop foibles et d'autres qui n'étoient pas suffisamment appuyés'. Uproar followed and Pasquier, an influential member of the *grand'chambre*, declared 'que c'étoit infame qu'on n'avoit jamais parle de la facon à un premier président'. As the row continued a third counsellor, Coste de Champeron, called for the prosecution of Pasquier for having 'insulté un de messieurs dans son avis', and Drouyn had to intervene personally to prevent the situation from escalating.

These bitter quarrels were indicative of the broader divisions amongst the Parisian magistrates. Clearly, the traditional disagreement between the moderate *grand'chambre* and the younger magistrates of the *enquêtes* had resurfaced, but recent bitter memories had also been stirred. Drouyn and Pasquier represented two distinct and hostile camps within the parlement. During the crisis of 1756–7, Pasquier had continued to serve the king and had been a sharp critic of those who had resigned. Drouyn, on the other hand, was one of sixteen judges exiled because of his intransigent opposition to royal policy. In Paris, unlike Besançon, Pau and Rennes,⁷⁴ these disputes never developed into a permanent schism, but their very existence illustrates the feuds and tensions that were a regular feature of the parlement's debates.

⁷⁰ Flammermont, *Remonstrances*, II, 188–203.

⁷¹ Barbier, *Chronique*, VII, 172.

⁷² For details of the debate of 28 August see: AN U 1094, dos. 3, 28 Aug. 1759; AN X1A 8289, fos. 49–51; and Barbier, *Chronique*, VII, 180.

⁷³ AN U 1094, dos. 3, 28 Aug. 1759; AN X1A 8289, fos. 49–51; and Barbier, *Chronique*, VII, 180.

⁷⁴ During 1765 the parlements of Pau and of Rennes split in a manner not dissimilar to that of Besançon. It was the crisis in the parlement of Rennes which led to the famous Brittany affair and ultimately to the reforms of chancellor de Maupeou.

IV

After the disagreements of 28 August, the remonstrances received by Louis XV on 4 September were something of an anticlimax, and they were described by one magistrate as 'misérable'.⁷⁵ Three days later, on the eve of the judicial vacations, the parlement voted in favour of an *arrêté*, ordering the first president to use his good offices on behalf of the exiles. Thereafter the affair was temporarily eclipsed by the controversy surrounding the imposition of a third wartime *vingtième*.⁷⁶ Opposition from the parlement helped to topple the *contrôleur général*, Silhouette, forcing his successor, Bertin, to seek cooperation with the judges in order to resolve a desperate financial crisis. It is likely that these difficulties also encouraged the ministry to behave in a conciliatory fashion in its treatment of the Besançon affair. Early in 1760, the king summoned two exiles and two members of the rump parlement of Besançon to Versailles for negotiations. In an assembly held on 11 January, Molé informed his colleagues of these developments and spoke optimistically about the chances of a recall for the exiles.⁷⁷ While the four representatives from Besançon remained at court, the Parisians took far less interest in the affair, demanding information only periodically from their chief. In a series of bulletins issued during May, Molé explained that the king had appointed a 'comité entre les ministres' to consult with the four exiles.⁷⁸ On 13 June, he was able to expand his account further and gave details of a meeting of the council held on 26 May. He claimed that the problems of Besançon had been dealt with in depth, and that the king had personally taken responsibility for the affair.⁷⁹

Throughout the first half of 1760, the ministry succeeded in silencing the parlement of Paris. It had achieved that aim by sending signals via the first president, hinting that a solution was in sight. However, there was a limit to the judges' patience and on 17 June they sent Molé to remind Louis XV of the need for a prompt end to the crisis.⁸⁰ The king made a far from encouraging reply, provoking new remonstrances on 12 July.⁸¹ Louis XV again reprimanded the parlement for its involvement in the affair, but he added a crucial new phrase by stating that:

j'ai déterminé le jour où je rappellerai les membres du parlement de Besançon que j'ai éloignés...la soumission des exilés peut seule me déterminer à les rappeler sur-le-champ.⁸²

Such a clumsy and contradictory statement was certain to make matters worse. Government critics were quick to seize upon the fact that if the king had decided when the exile should end, there was no reason for the date to remain a mystery. Yet, the emphasis on the need for a sign of contrition from the exiles

⁷⁵ AN U 1094, dos. 3, 28 Aug. 1759.

⁷⁶ Swann, 'Politics and the parlement', pp. 159–73.

⁷⁸ AN X1A 8289, fo. 180, 5 May 1760.

⁸⁰ Flammermont, *Remonstrances*, II, 209–10.

⁸² *Ibid.* pp. 212–13.

⁷⁷ AN U 1109, fo. 30.

⁷⁹ AN X1A 8290, fo. 28.

⁸¹ *Ibid.* pp. 210–12.

implied that a recall was impossible because they had shown no signs of repentance.

The cause of this bungled response was the disarray within the royal council. L'Averdy, a respected counsellor in the Paris parlement and future *contrôleur général*, obtained some interesting information about these divisions from an anonymous source. He wrote:

le jour de la trinité il y a eu un conseil dans lequel six ministres ont été favorables, [to recall the exiles] mais trois autres ont été à feu et sang contre, savoir M. Bertin, M. le Chancelier et M. de Belle-Isle. Après de longues discussions le Roi a dit qu'il se reservoit à en decider seul.⁸³

Serious divisions within the royal council were a feature of government under Louis XV, but attitudes to the problems in Besançon reflected broader disagreements about the role of the parlements. For many years, Belle-Isle had been concerned about the threat they posed to the king's authority, and he had even argued publicly in favour of their suppression.⁸⁴ As the minister responsible for the province of Franche-Comté, he was in a strong position to protect Bourgeois de Boynes and the duc de Randan. Chancellor de Lamoignon and the *contrôleur général* Bertin were both members of the *parti dévot* at court, which was noted for its hostility to the parlements. However, to understand subsequent events, it is important to note that another distinguished member of the council, the duc de Choiseul, minister of foreign affairs, favoured the recall of the exiles.

Faced by these conflicting opinions, the king tried to resolve the crisis on his own initiative.⁸⁵ He had been concerned that his response to the Paris parlement of 12 July would provoke a judicial strike, but in fact it only produced further *représentations* on 17 August.⁸⁶ The diarist Barbier observed perceptively that the parlement's protests were 'toujours les mêmes redigées d'une autre façon'.⁸⁷ Louis XV did little more than repeat his earlier refusal to discuss the matter with the parlement, which did not prevent the court from sending yet more *représentations* on 4 September. The judicial vacations put an end to this rather pointless dialogue on the 7th of that month, although before leaving for their estates the magistrates agreed to resume their discussions on 28 November.

Louis XV and his ministers were thus left with a breathing space in which to produce a solution. However, it would appear that during the autumn of 1760 the king was persuaded to continue his hardline policy in Besançon. The first indication of his new determination was the dismissal of the two exiles who

⁸³ BPR Collection Le Paige, fo. 56, L'Averdy to Le Paige, 10 and 12 June 1760. The other members of the council were: *garde des sceaux*, Berryer; duc de Choiseul; maréchal d'Estrées; Gilbert de Voisins; comte de Saint-Florentin; and prince de Soubise.

⁸⁴ Duc de Croÿ, *Journal inédit du duc de Croÿ, 1718-1784* eds., vicomte de Grouchy and P. Cottin, 4 vols. (Paris, 1906), I, 358, and Barbier, *Chronique*, vi, 403.

⁸⁵ See the correspondence between Louis XV and chancellor de Lamoignon, AN AP 162 mi 1, dos. 1-5.

⁸⁶ *Représentations* tended to be much shorter than remonstrances and could be produced comparatively quickly.

⁸⁷ Barbier, *Chronique*, vii, 266-7.

had been summoned to Versailles for negotiations. Then, on 30 October, the king received a deputation of the rump parlement and announced that he would only recall the exiles 'après avoir reçu des temoignages de leur soumission'.⁸⁸ Belle-Isle was almost certainly responsible for stiffening the resolve of Louis XV, and he was alleged to have spoken in harsh terms to the two exiles, accusing them of 'une insolence sans égale' and of attempting to 'bouleverser le royaume'.⁸⁹ The minister also became involved in a serious disagreement with the first president of the Paris parlement about the Besançon affair.⁹⁰ Molé was in a particularly difficult situation as he was expected to prevent his colleagues from intervening further. It was a thankless task, and it is hardly surprising that during October he twice offered his resignation.⁹¹ Only the personal command of Louis XV kept him at his post.

When the parlement debated the Besançon affair on 28 November, therefore, its members had few grounds for optimism. Nor was there much likelihood that the king would be impressed by yet more remonstrances, although the idea was suggested.⁹² As a result, the majority endorsed a radical proposal to invite the princes and the peers to discuss the problems in Franche-Comté on 9 January 1761. In the *arrêté* which announced the invitation, the judges declared that:

il est intéressant pour la nation entière qu'elle soit formée par le concours des suffrages de tous le membres qui composent la Cour des Paris, puisque son objet doit être, d'un côté, de développer audit seigneur Roi les principes de la monarchie Française qui assurent à chaque citoyen une liberté dont il ne peut être privé que dans les cas prévus par les lois.⁹³

Although the exact voting figures were not recorded, it is clear that the invitation did not win unanimous support.⁹⁴ Moreover, a larger number of the judges had not returned from their vacation, which leaves open the possibility that the radical few had seized the initiative. Given his personal feud with Belle-Isle, it is also conceivable that Molé had encouraged his colleagues to adopt a more combative stance in order to embarrass the ministry.

Whatever the truth of the matter, the invitation added a new and important dimension to the crisis. In his many replies to their remonstrances, Louis XV had made it clear that the Parisian magistrates had no legal right to meddle in the internal affairs of another court. By inviting the princes and the peers, and talking of the Besançon affair as a national crisis, they could circumvent this objection. Yet, it was a highly dangerous strategy. If the parlement succeeded both in defining the events in Franche-Comté as a threat to the entire kingdom and in cementing an alliance with the peerage, then, potentially at least, it offered the prospect of a joint veto of royal policy in the province. Certainly the king would not have been obliged to accept the verdict of such an assembly, but by November 1760 the prestige of the monarchy had

⁸⁸ AN X1A 8290, fo. 161.

⁹⁰ Barbier, *Chronique*, VII, 308.

⁹² AN X1A 8290, fo. 161.

⁹⁴ AN X1A 8290, fo. 161. According to the register it was adopted *maximo numero*.

⁸⁹ BPR Collection Le Paige 556, fo. 27.

⁹¹ AN AP 162 mi 2, dos. 2, fos. 36-45.

⁹³ Flammermont, *Remonstrances*, II, 217.

been badly dented by a series of military reverses in both Europe and North America. It was a genuine threat to the royal authority, and Louis XV would prove equal to that challenge.

V

The only compensation for the government was the timing of the invitation. Unlike in February 1756, when the court had attempted to convoke the peers within twenty-four hours, the judges had given over six weeks notice of their intentions.⁹⁵ On that occasion, the parlement had been involved in a jurisdictional quarrel with a rival court the *grand conseil*. When Louis XV supported the claims of the *grand conseil*, the parlement invited the princes and the peers to join them in protecting the rights of the 'cour des pairs'. Rather than allow such a challenge to his authority the king had forbidden the peers to attend, but the threat of combined opposition to his policies was one of the reasons behind the subsequent abandonment of the *grand conseil*. In November 1760, neither the rights of the parlement nor those of the peers were directly threatened, and it is probable that the intention was to frighten the government, while leaving sufficient time for a negotiated settlement.

Subsequently, there were a number of initiatives aimed at producing a solution to the crisis, and even the maréchal de Belle-Isle showed a willingness to consider compromise.⁹⁶ However, one of the more interesting projects for negotiation emerged from within the family of Bourgeois de Boynes. Fearful of the possible consequences of the affair, Mme de Montgeron wrote to her son-in-law urging him to make peace with his enemies.⁹⁷ The Montgeron were an established robe family with a strong Jansenist tradition. It was Carré de Montgeron, counsellor in the Paris parlement, who had in 1737 presented Louis XV with his book which he believed demonstrated the truth of the miracles of deacon Paris.⁹⁸ These links probably account for Mme de Montgeron's decision to contact Le Paige, who was provided with copies of her correspondence, and the Abbé Terray, *rapporteur*⁹⁹ in the Paris parlement. Le Paige then drafted a plan to resolve the Besançon affair which was sent to the besieged first president.¹⁰⁰

Nothing came of these efforts, but the mere fact that Le Paige, Terray and Bourgeois could have entered into these informal negotiations demonstrates the need for caution when assessing political conflict under Louis XV. The many statements, remonstrances and pamphlets issued in the course of the

⁹⁵ This is the subject of the present author's forthcoming article, 'Parlement politics and the *parti janséniste*'. ⁹⁶ Mansergh, 'The revolution of 1771', pp. 45–6.

⁹⁷ BPR Collection Le Paige 556. fo. 32, M. de Boines [*sic*] to Mme de Montgeron, 1 Dec. 1760.

⁹⁸ B. R. Kreiser, *Miracles, convulsions and ecclesiastical politics in early eighteenth-century Paris* (Princeton, 1978), pp. 379–82.

⁹⁹ The *rapporteur* was appointed by the government and charged with presenting its edicts and declarations to the parlement.

¹⁰⁰ BPR Collection Le Paige 556, fo. 33, Mémoire sur la lettre de m. le p.p. [de Besançon du 1 Decembre 1760].

Besançon affair provide ample testimony to the constitutional debate that marked the public face of politics in the last years of the reign. Yet, private informal channels of communication were the other side of the political equation and they were vital to the smooth running of government. The number of individuals, or, perhaps more accurately, families involved was small, probably no more than a few hundred, allowing disputes to be settled through the kind of informal methods attempted by Mme de Montgeron. Thus, in public, Bourgeois de Boynes was the intendant, the defender of the royal authority and scourge of the parlements; in private he was married into a Jansenist family with impeccable *parlementaire* credentials and counted enlightened magistrates such as Malesherbes amongst his closest friends.

The personal dimension is vital to any analysis of eighteenth-century politics, but it has been frequently neglected in recent scholarship. The friendship between Bourgeois and Malesherbes is particularly instructive because it demonstrates the potential shortcomings of interpretations based solely on ideologies or discourse. Malesherbes has been described as 'one of the most enlightened and liberal magistrates of the old regime', and his brilliant criticisms of Maupeou in the remonstrances written for the *cour des aides* in 1775 as the most enlightened form of a 'judicial discourse' of opposition to absolutism.¹⁰¹ However, studies of eighteenth-century politics which divide magistrates or members of the royal administration into distinct groups on the basis of such public 'discourse' ignore the social context of political behaviour. In the 1760s, there was nothing incongruous about Malesherbes writing both for and against the parlements in their quarrels with the crown. Together with Bourgeois de Boynes, he penned pamphlets supporting the royal position in Besançon.¹⁰² Yet, when contacted by a distant cousin, president de Brosses of Dijon, he was equally capable of writing remonstrances criticising the same government for backing the estates of Burgundy against the local parlement.¹⁰³ Pamphlets, remonstrances and the ideas they contained were all strategies designed to achieve particular ends, and these could change rapidly according to the personalities and issues involved. This was the daily reality of judicial politics which was conducted within a narrow social and professional elite.

The importance of informal personal contacts was quickly demonstrated by Louis XV, who exercised his own form of family politics in order to guarantee the loyalty of the princes of the blood.¹⁰⁴ The king asked the duc d'Orléans to arrange a meeting of the princes and the peers in order to convince them of the parlement's errors.¹⁰⁵ Orléans presented two memoranda to the king on 29

¹⁰¹ Baker, *Inventing the French revolution*, pp. 119–20, 126–7. The importance of these remonstrances and of Malesherbes' 'liberal constitutionalism' has been frequently stressed in Baker's work, *ibid.* pp. 26, 182, 188–9, 234.

¹⁰² J. N. Moreau, *Mes souvenirs* (2 vols., Paris, 1898), I, 79.

¹⁰³ T. Foiset, *Le président de Brosses. Histoire des lettres et des parlements au XVIIIe siècle* (Paris, 1842), p. 218.

¹⁰⁴ Details of the king's correspondence with the princes is contained in: AN K 703, fos. 15–19.

¹⁰⁵ AN K 703, fo. 15. The document is headed 'Rémis par le Roy à Mgr le duc d'Orléans le 28 Xbre 1760'.

December, which cautioned against allowing their plan to appear too obviously stagemanaged.¹⁰⁶ Instead, he suggested calling an assembly of the princes and the peers at which he would explain both the king's desire to end the Besançon affair and his assertion that the Parisian judges had no legitimate right to intervene. Finally, Orléans would report that although the king had no intention of challenging the right of the princes and the peers to attend the assembly of 9 January, he was anxious to reach a solution with the parlement of Besançon alone.

After Mass on 1 January 1761 Louis XV informed the other princes of the meeting to be held at the Palais Royal on the 3rd. He told them that 'il comptoit sur leur zèle et sur leur fidélité', producing an immediate reaction from the prince de Conti, who denounced the idea of any assembly other than that in the parlement.¹⁰⁷ Louis XV listened to Conti's lengthy argument, although it failed to persuade him to cancel the assembly of 3 January. Conti, on the other hand, had again demonstrated his willingness to defend the ideas and principles of the parlement of Paris.¹⁰⁸ The prince had been estranged from Louis XV since the dramatic events of 1756 when the conclusion of the Austrian alliance had shattered his personal diplomatic initiatives.¹⁰⁹ Throughout this period, he used his extensive contacts among the *parlementaires*, many of whom were his clients, to oppose government policy.¹¹⁰ Thus, in December 1760 he had been working with his advisers Le Paige and the erudite former magistrate Durey de Meinières to combat any attempt to block the attendance of the peers on 9 January.¹¹¹

When the princes and the peers assembled on 3 January, they had their first opportunity since the collapse of the *polysynodie* to take decisive political action. Had the meeting chosen to ally itself with the parlement, then the authority of Louis XV would have been badly compromised. Instead, the overwhelming majority of the peers were willing to be marshalled by the duc d'Orléans into a public demonstration of loyalty.¹¹² Orléans, seconded by both the prince de Condé and the prince de Clermont, argued that the king had made it perfectly clear that the Besançon affair was outside the jurisdiction of the parlement of Paris, thus the peers should ignore the invitation. Only the prince de Conti

¹⁰⁶ Ibid. fos. 16–17. They were entitled 'Motifs des reflexions de M. le duc d'Orléans sur le mémoire du Roy', and 'Reflexions de M. le duc d'Orléans sur le projet qui lui a été remis par le Roy'.

¹⁰⁷ BPR Collection Le Paige 556, fo. 64. These details were given to Le Paige by the prince de Conti.

¹⁰⁸ For some examples of Conti's involvement in the affairs of the parlement see: Van Kley, 'The prince de Conti versus Mme de Pompadour and the political crisis of 1756–7 in France: an eighteenth-century fronde manqué', *Proceedings of the annual meeting of the western society for French history*, viii (1980) and his *Damiens*, pp. 144–7.

¹⁰⁹ D. Ozanam and M. Antoine, *Correspondance secrète du comte de Broglie avec Louis XV, 1756–1774* (2 vols. Paris, 1956), pp. xxxvii–xli.

¹¹⁰ This relationship is examined in the present author's forthcoming article, 'Parlement politics and the *parti janséniste*'.

¹¹¹ BPR Collection Le Paige 556, fos. 59–64 and B[ibliothèque du] S[énat]MS 9418.

¹¹² BPR Collection Le Paige 556, fo. 64, and AN K 703, fo. 25.

offered serious opposition to their motion. He made a speech lasting more than an hour in which he urged the peers not only to accept the invitation, but also to make their own appeal for the recall of the thirty exiles. Despite Conti's eloquence, his audience was unsympathetic and only his son, the comte de la Marche, supported his call. The prince's only consolation was a private message of support from the duc de Choiseul and the maréchal de Soubise.¹¹³ Both were critical of the parlement, but clearly favoured a change in government policy in Besançon, a position consistent with their behaviour in the royal council.

Nevertheless, the meeting of 3 January had produced an emphatic rejection of the parlement's invitation and when the judges assembled on 9 January it was without the anticipated guests. In a confused debate, they sought desperately to find a means of emerging from the affair with their honour intact.¹¹⁴ Many of the judges seemed shocked that the peers had refused the invitation, and it was argued that the rights of the peerage belonged 'ni aux princes et des pairs ni au parlement, parce que c'est un droit national, qui appartient à l'état et au Roi'. Sixty-three judges voted in favour of a protest drafted along these lines, but the majority, eighty-one in all, rejected the protest. Instead they adopted a long and incoherent *arrêté* that sought to hide their embarrassment by extolling the virtues of the *cour des pairs* and their own role as defenders of its rights. Having failed to break the deadlock in the Besançon affair by using the weapon of the peerage, the parlement was left with little alternative but to prepare further remonstrances. These were duly voted on 10 January, but amongst those present few could have expected a positive reply. Louis XV, on the other hand, had grounds to feel satisfied. He still faced opposition to his policies in Besançon, but the weakness of the Paris parlement was now clear and with firmness and patience the crown might have succeeded in settling the affair on its own terms.

VI

Remarkably, the government did not press the advantage it had won in January 1761. Instead the policy pursued with so much difficulty during the previous two years was rapidly abandoned. In May, Bourgeois de Boynes was forced to resign from his posts in Franche-Comté, and it was only after the personal intervention of his old patron, chancellor de Lamoignon, that he secured the office of *conseiller d'état* and a modest pension.¹¹⁵ For his allies in Besançon fate was less kind, and in October they saw their thirty exiled colleagues return to an ecstatic popular reception.¹¹⁶ Worse was to come, and one of Bourgeois's most loyal lieutenants, president de Michotey, was forced to seek sanctuary from a mob in the residence of the commandant. Other members of the rump parlement were ostracized or insulted by the former

¹¹³ BPR Collection Le Paige 556, fo. 64. The prince was also congratulated by the duc de Biron.

¹¹⁴ AN X1A 8290, fos. 167–70.

¹¹⁵ BPR Collection Le Paige 556, fo. 88.

¹¹⁶ Estignard, *Parlement de Franche-Comté*, 1, 340–67.

exiles, and one counsellor, l'abbé Mareschal d'Audeux, was forced to resign.¹¹⁷ The bitterness of these men, who claimed that their only crime had been to obey the king, was understandable, but they did not have to look far to find a scapegoat. As the exiles returned to the city, they were greeted by the inhabitants of Besançon who cheered 'Vive le Roi! Vive les pères de la patrie! Vive la maison de Choiseul!'.¹¹⁸ Admittedly, the celebrations were in part organized by the archbishop of Besançon, who was a member of the Choiseul family, but it was the minister in Versailles who had made the festivities possible.

The explanation for this sudden reversal of policy was the set of ministerial changes that followed the death of the maréchal de Belle-Isle on 26 January 1761. Together with the chancellor, Belle-Isle had sustained Bourgeois and government policy in Besançon. After his death, the balance of power within the king's council shifted firmly towards Choiseul, who replaced the *maréchal* as secretary of state for war, assuming at the same time responsibility for Franche-Comté. He was now the senior figure in government, as the appointment of his cousin, Praslin, to the post of secretary of state for foreign affairs, in October 1761, soon demonstrated. Moreover, since the summer of 1760, Choiseul had been willing to resolve the Besançon affair on terms acceptable to both the exiles and the parlement of Paris. Once in a position to direct policy he was quick to distance himself from the draconian measures of his predecessor.

Undaunted by the loss of Belle-Isle, Bourgeois de Boynes had continued to lobby for firm action and in February 1761 he had requested the arrest of three lawyers who, he believed, were co-ordinating resistance to his measures.¹¹⁹ He was to be disappointed. Lamoignon was unable to persuade Choiseul to issue the necessary instructions. Moreover, in a letter to the chancellor, Choiseul presented a measured and perceptive critique of the drawbacks such a policy could be expected to produce.¹²⁰ He argued that 'l'éclat de leur détention n'aurait fait qu'échauffer de plus en plus les esprits, et les rendre moins susceptibles des principes auxquels il est important de les ramener'. To restore peace in the province, Choiseul not only rejected calls for further harsh measures, but was even prepared to replace Bourgeois and recall the exiles.¹²¹ It was the first clear indication that the new ministry would seek accommodation rather than confrontation with the parlements.

¹¹⁷ Marion, 'Grèves et rentrées', p. 92.

¹¹⁸ Ibid. pp. 88-9.

¹¹⁹ Bourgeois had been considering the idea for some time as his letters to Lamoignon of 26 Dec. 1760 and 14 Jan. 1761 show. AN AP 177 mi 82, dos. 28, fos. 42-3.

¹²⁰ Ibid. fo. 44, 10 Feb. 1761.

¹²¹ In a letter to president de Chiflet, the *conseiller d'état*, d'Aguesseau de Fresnes, claimed that Choiseul was responsible for the new policy, BMB Collection Chiflet 194, fo. 254, 3 March 1761. Bourgeois also blamed Choiseul for his fall as can be seen from the text of his memoirs cited in J. Bourgeois de Boynes, 'Pierre-Etienne Bourgeois de Boynes, intendant de Franche-Comté défenseur de l'autorité royale', *Extrait des mémoires de la société d'émulation de Doubs*, 20 (1978), p. 83 and 'Pierre-Etienne Bourgeois de Boynes premier président du parlement de Franche-Comté, 1757-1761', *ibid.* 21 (1979), p. 76. I am grateful to M. le marquis de Boynes for his help and advice in preparing this paper.

Confirmation of the changed political atmosphere was provided by the behaviour of the parlement of Paris which made no further comments about the affairs of its sister court. The remonstrances, voted on 10 January 1761, were never presented, and there was no attempt to influence publicly the negotiations between the ministry and the exiles. This sudden display of moderation was almost certainly the result of conciliatory messages emanating from Versailles. Indeed, the parlement was soon occupied by a very different conflict because on 17 April 1761, the Abbé Chauvelin denounced the constitution of the Society of Jesus before a plenary session of the court.¹²² His attack marked the beginning of a protracted struggle that would result in the expulsion of the Society from France. Almost ever since, there has been controversy about whether or not Choiseul allowed, or encouraged, the Parisian judges to attack their old enemies in return for acquiescence during the difficult final months of the Seven Years War.¹²³ There can be no doubt that this was the case. Choiseul was close to the Abbé Chauvelin, and for many years he was advised by the influential Jansenist magistrate, Lambert.¹²⁴ Robert de Saint Vincent, another member of the *parti janséniste*, was close to both Chauvelin and Lambert and had no doubt that the attack on the Jesuits had been plotted in advance.¹²⁵ Such ties were symptomatic of Choiseul's approach to the parlements which avoided the confrontational measures favoured by Belle-Isle or Bourgeois de Boynes.

Yet the argument about how to respond to the power and political pretensions of the parlements was far from over, and the fall of Choiseul in 1770 brought belated revenge for Bourgeois de Boynes, who was appointed secretary of state for the navy, and his old allies from Franche-Comté. As Maupeou sought to implement his new judicial reforms, the parlement of Besançon split on broadly the same lines as in 1759. President de Chifflet, who had been close to Bourgeois, was appointed to the post of first president, whereas others were given posts in the reformed parlement of Paris.¹²⁶ Renard, formerly exiled in Antibes, remained true to his cause, and it was he who wrote the parlement's *arrête* of 16 July 1771 which contained a scathing attack on Maupeou.¹²⁷ If the robe was split, then so too was the sword. Randan, now the duc de Lorges, carried out the king's orders to dissolve the parlement of Besançon accompanied by another victim of the *parlementaire* quarrels,

¹²² Van Kley's, *Jansenists and Jesuits*, is an indispensable guide to the attack on the Jesuits and its consequences.

¹²³ See: baron de Besenval, *Mémoires du baron de Besenval*, ed. A. J. P. Ségur, 4 vols. (Paris, 1805), I, 364–70 and II, 2–8; Moreau, *Mes souvenirs*, II, 568–74; and duc de Choiseul, *Mémoires du duc de Choiseul*, ed. F. Calmettes (Paris, 1904), pp. 172–98.

¹²⁴ J. N. Dufort, *Mémoires sur les règnes de Louis XV et Louis XVI et sur la révolution*, ed. R. de Grèvecœur, 2 vols. (Paris, 1886), I, 260, 285–6, 392.

¹²⁵ The author would like to thank Dale Van Kley for allowing him to consult a typed copy of Robert de Saint Vincent's memoirs. The original is in the possession of M. Vinot Préfontaine of Arpajon. The references here are to the typed copy, Robert de Saint Vincent, *Mémoires*, pp. 210–15, 227–9, 268.

¹²⁶ J. Félix, *Les magistrats du parlement de Paris, 1771–1790* (Paris, 1990), p. 45.

¹²⁷ Estignard, *Parlement de Franche-Comté*, I, 368–75.

Bastard, deposed first president of the parlement of Toulouse. However, Randan's uncle, the duc de Duras, refused to execute a similar commission in Brittany, as did others including the prince de Beauvau commandant in Languedoc.¹²⁸ Both men were close to Choiseul, yet for noble military officers to refuse to serve their king demonstrates the extent to which the crown struggled to silence the parlements. Certainly the Maupeou crisis would broaden the political debate, but the Besançon affair demonstrates that during the last twenty years of the reign of Louis XV the French nobility was already split by the political and constitutional issues raised by the parlements. Those divisions would become even more painfully evident in 1789.

VII

An examination of the Besançon affair reveals much about how judicial politics actually worked in eighteenth-century France. After 1750, and particularly the outbreak of war in 1756, Louis XV was obliged to make heavy fiscal demands upon his subjects. When these funds were directed into an unpopular and militarily disastrous war – seemingly fought on behalf of the traditional Austrian enemy – popularity and respect drained away from the monarchy. Yet, if increasing taxation lit the fires of confrontation in Franche-Comté, it is not a sufficient explanation for the development of the subsequent crisis. During the last years of Louis XV's reign, many of the channels of communication and informal rules that had done so much to make government work were either blocked or broken. As events in Besançon had revealed, the Brittany affair was by no means an aberration, and the crown was constantly in danger of becoming involved in protracted and damaging disputes. Indeed, in 1763, the government found itself all but emasculated by widespread opposition to its fiscal policies which affected several parlements simultaneously.¹²⁹

The king must personally bear some of the responsibility for these difficulties. As we have seen, Louis XV was perfectly capable of assuming control of events, especially if he believed his personal authority was threatened. Yet, even Michel Antoine cannot disguise the fact that he failed to exercise a consistent hand on government.¹³⁰ The factionalism which the king allowed, or even fostered, within his council ensured that ministerial rivals like Belle-Isle and Choiseul treated problems in the parlements as an extension of their own quarrels. Weakness at the centre meant that policies were implemented without sufficient thought or preparation and were then abandoned without explanation. By appointing Bourgeois de Boynes to the posts of intendant and first president, the government had concentrated a great deal of power into the hands of a man with no family connections in Franche-Comté. Such a gesture

¹²⁸ Bibliothèque Municipale de Dijon, Ms 1233, fos. 22–6, 'Recueil de la plus étonnante révolution arrivée en France depuis 1769 à 1775, par l'abbé Courtepeée'.

¹²⁹ The crisis has been examined in a perceptive article by D. Hudson, 'The parliamentary crisis of 1763 in France and its consequences', *Canadian Journal of History*, vii (1972).

¹³⁰ M. Antoine, *Louis XV* (Paris, 1989).

invited conflict and the Besançon affair was the result, but many of the *parlementaire* crises arose because of similar insensitivity towards provincial or corporate interests.

Finally, this analysis of the Besançon affair has laid great emphasis upon the personal or corporate motives of jealousy, revenge and ambition which shaped the actions of the individuals and institutions involved. These may appear as minor empirical details when set against the ideological and constitutional wars of ideas that dominate current historical debate. Yet, by simply concentrating on the public rhetoric of judicial conflict, historians are in danger of neglecting the social and institutional context of political life. Not every magistrate was impressed by Jansenist constitutionalism, some found it silly or even sinister, nor did all agree with the remonstrances published in their name. Moreover, there were no more than a few hundred individuals who were actually in a position to participate in the votes and decisions that were central to government. That both the crown and the parlements were increasingly drawn into a regular public defence of their position was undoubtedly a vital innovation, but the aims of those involved were frequently less radical than the language used to achieve them. New ideas and appeals to public opinion were both strategies employed to achieve particular ends and before Maupeou's revolution individuals could happily switch their support from the crown to the parlements and back again, depending upon the personal, family or corporate issues involved. In the long-term, the parlements were playing with fire, and historians are right to stress the damage caused to monarchical authority. Yet, as the Besançon affair illustrates, when searching for the cultural origins of the French revolution, it is important not to forget the social and political realities of the *ancien régime*.